

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

CLEAR WITH COMPUTERS, LLC,)
)
Plaintiff,)
) Civil Action No. _____
v.)
) **JURY TRIAL DEMANDED**
SPANX, INC.,)
)
Defendant.)
_____)

COMPLAINT

For its Complaint, Plaintiff Clear With Computers, LLC ("CWC"), by and through the undersigned counsel, alleges as follows:

THE PARTIES

1. CWC is a Texas limited liability company with a place of business located at 719 West Front Street, Suite 242, Tyler, Texas 75702.

2. Defendant Spanx, Inc. ("Spanx") is a Georgia corporation with, upon information and belief, a place of business located at 3344 Peachtree Road, Suite 1700, Atlanta, Georgia 30326.

JURISDICTION AND VENUE

3. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*

4. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.

5. Upon information and belief, Spanx conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in

other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in this district.

6. Venue is proper in this district pursuant to §§ 1391(b), (c) and 1400(b).

THE PATENT-IN-SUIT

7. On September 11, 2012, United States Patent No. 8,266,015 (the "'015 patent"), entitled "Inventory Sales System and Method," was duly and lawfully issued by the U.S. Patent and Trademark Office ("USPTO"). A true and correct copy of the '015 patent is attached hereto as Exhibit A.

8. CWC is the assignee and owner of the right, title and interest in and to the '015 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,266,015

9. CWC repeats and realleges the allegations of paragraphs 1 through 8 as if fully set forth herein.

10. Without license or authorization and in violation of 35 U.S.C. § 271(a), Spanx has infringed and continues to infringe at least claim 1 of the '015 patent by making, using, owning, operating, and/or maintaining one or more websites, including but not limited to, www.spanx.com, which include or incorporate certain computer program products and methods, including, but not limited to, a configuration engine, that embody subject matter claimed in the '015 patent. A copy of relevant portions of the www.spanx.com website is attached hereto as Exhibit B.

11. CWC is entitled to recover from Spanx the damages sustained by Spanx as a result of its infringement of the '015 patent in an amount subject to proof at trial, which,

by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

CWC hereby demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, CWC requests that this Court enter judgment against Spanx as follows:

- A. An adjudication that Spanx has infringed the '015 patent;
- B. An award of damages to be paid by Spanx adequate to compensate Spanx for its past infringement of the '015 patent and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of CWC's reasonable attorneys' fees; and
- D. An award to CWC of such further relief at law or in equity as the Court deems just and proper.

Dated: December 20, 2012

/s/Andrew W. Spangler

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